

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 June 2022 in Case R 752/2021-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision insofar as it relates to Prolactal;
- order EUIPO to pay the costs of the proceedings.

Pleas in law

- Infringement of Article 27(4) of Commission Delegated Regulation (EU) 2018/625;
- Infringement of the principles of the protection of legitimate expectations and legal certainty, on the ground that the EUIPO's decision that the requests for proof of use filed by Prolactal do not comply with the requirements of Article 10 (1) EUTMDR, and are thus inadmissible, is not proportional to the consequences thereof;
- Infringement of Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 94 of Regulation (EU) 2017/1001 of the European Parliament and of the Council and of Article 41(2) of the Charter of Fundamental Rights of the European Union;
- Infringement of the principles of the protection of legitimate expectations and legal certainty as the burden of proof imposed by EUIPO went beyond the scope of what could be expected from the applicant to provide as evidence for coexistence;
- Infringement of relevant case-law with regard to the overall assessment of the likelihood of confusion.

Action brought on 7 September 2022 — mataharispaclub v EUIPO — Rouha (SpaClubMatahari)
(Case T-552/22)
(2022/C 408/55)

Language in which the application was lodged: Czech

Parties

Applicant: mataharispaclub s.r.o. (Mníšek pod Brdy, Czech Republic) (represented by: M. Diamant, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Alena Rouha (Prague, Czech Republic)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: EU word mark 'SpaClubMatahari' — EU trade mark No 17 642 661

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 30 June 2022 in Case R 937/2021-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and the intervener to pay the costs.

Pleas in law

- Infringement of Article 8(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 60(1)(a) and Article 60(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 9 September 2022 — France v Commission

(Case T-555/22)

(2022/C 408/56)

Language of the case: French

Parties

Applicant: French Republic (represented by: T. Stehelin, A. Daniel and E. Leclerc, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the notice of Open Competition EPSO/AD/400/22, entitled ‘Administrators (AD 7) and experts (AD 9) in the fields of defence industry and space’ published on 16 June 2022 in the Official Journal of the European Union; ⁽¹⁾
- order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging the notice of Open Competition EPSO/AD/400/22, entitled ‘Administrators (AD 7) and experts (AD 9) in the fields of defence industry and space’ (‘the contested notice of competition’) creates discrimination that is based on language and which is not justified.
2. Second plea in law, alleging infringement of the requirement to recruit officials of the highest standard of ability, efficiency and integrity.
3. Third plea in law, alleging the contested notice of competition circumvents the procedures provided by the Treaties to determine the rules governing the languages of the institutions of the European Union and the detailed rules for their application.
4. Fourth plea in law, alleging infringement of the European Union’s duty to respect its rich cultural and linguistic diversity and ensure that Europe’s cultural heritage is safeguarded and enhanced.
5. Fifth plea in law, alleging infringement of the duty to state reasons.

⁽¹⁾ OJ 2022 C 233A, p. 1.